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TAGS: [KACT](#) [PARM](#) [START](#) [JCIC](#) [INF](#) [US](#) [RS](#) [UP](#) [BO](#) [KZ](#)

SUBJECT: JCIC-XXXII: HEADS OF DELEGATION MEETING TO DISCUSS
THE "CONDUCT OF AN OBLIGATORY MEETING OF THE PARTIES TO
DISCUSS THE QUESTION OF START EXTENSION," JULY 23, 2008

Classified By: Jerry A. Taylor, United States
Representative to the Joint Compliance and Inspection
Commission. Reasons: 1.4(b) and (d).

[1](#)1. (U) This is JCIC-XXXII-016.

[1](#)2. (U) Meeting Date: July 23, 2008
Time: 10:30 A.M. - 12:00 P.M.
Place: U.S. Mission, Geneva

SUMMARY

[1](#)3. (S) A Heads of Delegation (HOD) meeting was held at the U.S. Mission on July 23, 2008 to discuss the Article XVII requirement by the Parties to "meet to consider whether this Treaty (START) will be extended...." The Parties agreed that the Treaty requires that a meeting be conducted prior to December 5, 2008, to "consider" the question of a Treaty extension, and also agreed that a final decision on the matter of Treaty extension did not have to be taken either at that meeting or by December 5, 2008. The exact format, timing, level of representation and terms of the meeting remain to be agreed via diplomatic channels. Only the Ukrainian Delegation expressed a definite position on Treaty extension, noting they would like START to be extended until 2013 in order to complete the elimination of their SS-24 systems. In preparation for this HOD meeting, U.S. and Russian lawyers met briefly to exchange preliminary views on legal aspects of implementing Article XVII.

WHAT ELEMENTS NEED
TO BE RESOLVED

[1](#)4. (S) Koshelev began the meeting by noting that the Treaty stipulates that Parties meet not later than one year prior to

its expiration. As the Treaty is scheduled to expire December 5, 2009, he shared his view that this meeting must occur prior to December 5, 2008. He identified three crucial elements to be resolved: the format (either within the JCIC or in a special arrangement), the level of representation, and what the possible results could be. He said that Russia placed this item for discussion on the agenda at the JCIC in order to hear the perspectives of other delegations on the matter and to determine what our future work was, which we would then all communicate to capitals. Koshelev offered no Russian view on extension of the Treaty.

15. (S) Kolesnik, reading from a prepared statement, emphasized the important role the START Treaty had played in contributing to nuclear disarmament and strategic stability. He noted that while one of the Treaty's main objectives, namely a 30 percent reduction in strategic offensive arms, has already been achieved, the START Treaty remains one of the most important elements in the international security architecture through its transparency, which was created by a unique and effective verification processes, that has improved the viability and effectiveness of the Treaty. He considered the Belarusian decision to accept the obligations of START through the Lisbon Protocol and the Nuclear Non-Proliferation Treaty as a non-nuclear weapon state in May 1992 to have been "well thought out" and had a historical basis. Regarding the issue at hand, Kolesnik stated that the Parties needed to consider the question of the future of the Treaty in a very responsible way and that the decision should be reached on the basis of a careful analysis in terms of international security and nonproliferation. He acknowledged that the issue could not be resolved at the current JCIC session, as the representatives were not authorized to do that and he urged that a special meeting should be held in an agreed format to consider the issue. He stated that Belarus would carefully study proposals and that, absent a decision on the meeting details during this session, work should continue via diplomatic channels.

16. (S) Making good on a pledge to keep his remarks short, Akhmetalin made a brief reference to the importance of the question of START Treaty extension in the context of the global role of reduction of strategic offensive arms and the international security framework. He stated that he joined Belarus, Ukraine and Russia in supporting a meeting to consider START extension prior to December 5, 2008, but he shared no view on whether the Treaty should be extended.

17. (S) Belashov stated that Ukraine also agreed that the fate of START was very important, noting that while many of its provisions had been fulfilled, there was also the view that not all of the opportunities afforded by the Treaty, particularly with regard to the JCIC, had been realized. He asserted that Ukraine had fulfilled all of its obligations under the Treaty and under the 1994 Trilateral (Russia, Ukraine and United States) Agreement, and listed some of the Ukrainian accomplishments: -- all silo launchers had been eliminated, all deployed weapons had been removed from active duty and no longer exist, and the elimination of all heavy bombers. While noting the achievements under START, the Cooperative Threat Reduction program, and via "other instruments," Belashov stated that there was work left to do regarding the second phase of the obligation to eliminate SS-24s, and noted that Ukraine would have difficulties dealing with the costs of this work relating to the facilities for "washing out" propellant. He assessed that the removal of SS-24s from accountability would be completed by the end of 2013 (Begin comment: Using the "washing out" process previously agreed by Parties during this JCIC session. End comment.). Based on this assessment, he expressed Ukraine's preference to extend the Treaty in order to ensure that work on the SS-24 was completed. He also noted that extending START would allow for the retention of existing control and verification mechanisms, emphasizing that Ukraine supported transparency and openness and that it acts in accordance with the Treaty, other instruments and its multilateral and bilateral agreements. He admitted that, at this JCIC session, the Parties would not be able to come to

an agreement on a final decision on the future of START but, while highlighting Ukrainian flexibility regarding the meeting format, Belashov shared his opinion that the JCIC was competent to discuss the issue and to reach a decision on Treaty extension no later than December 5, 2008, and that no special mechanism needed to be created. He added that there was a need for work through diplomatic channels during the intersessional period on this matter and that it would be one of the most important issues for the upcoming JCIC session.

¶8. (S) Taylor met with Belashov during a break in the meeting and Belashov admitted that he had no instructions on this issue and that he just wanted to get the discussions going. He understood that no final decision had to be reached at the meeting to be held prior to December 5, 2008, but he wanted to state that such a decision could be made at that time. When the meeting resumed after the break, both the Taylor and Koshelev sought to clarify Belashov's misinterpretation of Paragraph 2 of Article XVII, by explaining that the Treaty requires the conduct of a meeting regarding Treaty extension prior to December 5, 2008, but does not stipulate that a decision must be taken by that date. Noting the absence of legal counsel in his delegation, Belashov finally agreed with that interpretation and expressed confidence that his lawyers in Kyiv would as well.

¶9. (S) Taylor expressed appreciation for the views expressed and stated that they would be reported to authorities in Washington. He shared that the subject was still being discussed at a senior level within the U.S. Government and anticipated continued communications between Parties in the coming months.

¶10. (S) Koshelev summarized the views expressed by stating that all of the Parties agreed that there has to be a meeting prior to December 5, 2008, to consider whether START should be extended, and that concerning the format, representation and timing of such a meeting, it is still too early to reach agreement. He stated that this is why the Parties need to clarify how work would proceed since there is not much time left. He asked whether the next step should be through diplomatic channels or whether the legal advisers and other delegation members should meet before the end of this session, acknowledging that the Russian Delegation did not expect to be able to solve the issue of START extension during this session. He stated that the Russian Delegation knew that this was a preliminary discussion and would lead to further discussions and that the results of these preliminary discussions would be provided to capitals.

¶11. (S) Belashov took the floor again to explain his interpretation of paragraph 2 of Article XVII. He stated that the format of the meeting was not stipulated so that means that it is an open question. He emphasized his preference that the meeting be conducted within the framework of the JCIC, noting that this was still a preliminary view. He expressed his understanding that these issues would be discussed at a higher level, but he believed that all the "expert" work should be done in the JCIC and that, if a decision is taken to extend START, all the necessary documentation could be done within the JCIC. If, on the other hand, the decision was made not to extend START, then there was nothing for the JCIC to do to formalize that decision.

LAWYER'S PRE-MEETING
ON ARTICLE XVII

¶12. (S) At the request of Koshelev, U.S. and Russian lawyers (Brown and Kotkova) met on July 22 to discuss in a preliminary manner certain legal aspects of Article XVII prior to the HOD meeting concerning this issue. Kotkova stated that Russia fully understood that any meeting convened under paragraph 2 of Article XVII (to consider whether the Treaty should be extended for 5 years) must include all five Parties and that the meeting could be held at any level of

their respective governments. She raised the issue of what forum might be most suited for such a meeting, explaining that, because the JCIC offers an opportunity for all five Parties to meet together, it might be the most convenient option. She commented that, in such a case, the JCIC representatives (or others) might have to be authorized by their governments to represent that Party in the Article XVII meeting. She acknowledged that the Article XVII meeting could take place outside of the JCIC framework but could include representatives who had been sent to Geneva also for the JCIC session. Brown said that the United States was still in the process of reviewing a number of issues related to Article XVII and that all he would be able to do is to take her comments back to Washington or provide only unofficial reactions. She indicated that, similarly, Russia was still thinking through these questions, but wanted to flag them so that there could be further exchanges during the intersessional period through diplomatic channels.

¶13. (S) On the question of whether any official acknowledgement of the Article XVII meeting had to be made, Kotkova said that Russia recognized that there was no legal requirement to notify or publicize to non-parties (or the public) that the Article XVII meeting was held, but that one possibility to record the meeting for the Parties' own purposes could be a plenary statement at the end of a JCIC session that such a meeting was held. Kotkova asked whether a decision not to extend START had to be recorded formally in any way. Brown indicated he did not think that it had to be formally recorded but that, if the Parties wanted to do so, he did not see a problem with some sort of an acknowledgment by the Parties. She asked whether a decision to extend START for five years had to be submitted for ratification by the United States. Brown indicated that it did not, and Kotkova confirmed that this was the same situation for Russia.

¶14. (S) Kotkova raised the issue of whether fewer than five Parties could decide to extend START for five years under the Article XVII authority and, if so, whether the U.S. and Russia had to be included in that group. Brown stated that it was his interpretation that, in order to use the Article XVII procedures, all five Parties had to be part of the agreement to extend START for five years, so this did not appear to be a likely scenario. Kotkova sought Brown's views on how the decision of the Parties to extend START would be recorded, raising the ideas of government-to-government agreements or exchanges of letters and noting that it would probably have to be some sort of international agreement. Brown agreed that an international agreement of some sort would probably be what our governments would expect, adding that executive agreements were how the Parties codified their agreement on START implementation issues. Kotkova also raised the question as to what would be the form of any such exchange of letters, i.e., a letter from all four former USSR Parties addressed to the Government of the United States, or letters exchanged among all five Parties with each other. Brown indicated that he would have to consult before rendering anything more than a preliminary opinion based on the multilateralization of the Treaty through the Lisbon Protocol and the practice of the JCIC.

¶15. (S) Kotkova, referring to other possible meetings of the Parties on START extension, asked whether the decision to extend START could be taken even one day before termination of START, i.e., on December 4, 2009. Brown opined that, hypothetically, such a situation would not be inconsistent with Article XVII but that, in practice, the timing of any decision to extend START would depend upon all Parties being able to reach such an agreement in time; otherwise, START would terminate. Finally, she asked whether START could be extended for less than five years. Brown responded that in his view any period of less than five years would require ratification: either as a new Treaty that superseded START during the extended five year period, or as an amendment to START that changed the period of extension from a five-year period to a lesser period. She indicated that this was also the Russian view.

¶16. (U) Documents exchanged. None.

¶17. (U) Participants:

U.S.

Mr. Taylor
Ms. Bosco
Mr. Brown
LtCol Comeau
Mr. Couch
Mr. DeNinno
Mr. Dunn
Maj. Edinger
Mr. Fortier
Mr. Hanchett
Mr. Johnston
LTC Oppenheim
Mr. Smith
Mr. Tessier
Mr. Vogel
Mr. Yaguchi
Dr. Hopkins (Int)

BELARUS

Mr. Kolesnik
Mr. Ponomarev

KAZAKHSTAN

Mr. Akhmetalin

RUSSIA

Mr Koshelev
Mr. Lapshin
Mr. Kashirin
Capt(1st Rank) Kuz'min
Col Novikov
Col Ryzhkov
Mr. Semenov
Mr. Serov
Ms. Sorokina
Col Zaytsev
Ms. Yevarovskaya (Int)

UKRAINE

Mr. Belashov
Dr. Shevtsov
Maj Gen Fedotov

¶18. (U) Taylor sends.
TICHENOR

NNNN

End Cable Text